IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE K.C. BHANU

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WRIT PETITION NO : 4654 of 2004

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Dated 23-08-2005

Between:

P.Munuswamy Naidu, S/o.Nagamuni Naidu,
R/o.Police Colony, A.K.Nagar, Nellore.

..... PETITIONER

AND

1 The Director of Collegiate Education, Hyderabad.
2 The Regional Joint Director of Collegiate Education, Guntur.
3 The Secretary and Correspondent, Sri Sarvodaya College, Nellore.
4 Sri.K.Panduranga Madhav
Sri Sarvodaya College, Nellore.

.....RESPONDENTS

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No : 4654 of 2004

ORDER:

This writ petition is filed seeking a Mandamus declaring the order of the 1st respondent passed in R.C.No.1557/ADMN.IV./I/99 dated 19-4-2003 and the consequential order passed by the 2nd respondent in R.C.No.256/A1/2004 dated 23-2-2004, as illegal and arbitrary.

When the matter was taken up for hearing on 25-08-2005 none appeared for the petitioners and therefore, it was posted today under the caption “for dismissal”.

A challenge was made to the proceedings dated 19-4-2003 and consequently the proceedings dated 23-2-2004 were issued by the second respondent.

The learned counsel for the respondents 3 and 4 contended that the seniority has to be recorded from the date of appointment with reference to the rank secured in the selection process, but, not from the date of joining and the impugned proceedings have been rightly issued duly taking the merit ranking of the 4th respondent and hence there is no need to interfere with the same.

The learned Government Pleader for Higher Education appearing on behalf of the respondents 1 and 2 also contended that as per the Sub Rule (b) of Rule 33 of A.P. State Subordinate Service Rules, 1996, the impugned order has been issued. It is settled law that seniority has to be reckoned on the merit secured by the candidates in the selection process. Therefore, it does not suffer from any incurable legal infirmity.

As seen from the impugned proceedings the 4th respondent stood first and the petitioner stood second in the order of selection. The petitioner joined on 5-2-1980, whereas 4th respondent joined in service on 6-2-1980. As per Sub Rule (b) of Rule 33 of A.P. State Subordinate Service Rules, 1996, seniority between one or more persons appointed similarly into service, shall be assigned with reference to the order of merit or order of preference assigned to them, in the order of appointment, as indicated in the list of selected candidates prepared by the Service Commission or other selecting authority. Since the 4th respondent stood first and was assigned rank No.1, he has to be taken into consideration for the purpose of determining the seniority irrespective of date of joining. Therefore, the impugned order does not suffer from any incurable legal infirmities.

The writ petition is devoid of merits and accordingly dismissed. No costs.

(**K.C.BHANU, J.**)

23rd August, 2005.

mrb